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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,003	02/20/2004	David A. Matthews	MS1-2015US	4376

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EXAMINER	
BELOUSOV, ANDREY	
ART UNIT	PAPER NUMBER
2109	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/20/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/20/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary	Application No.	Applicant(s)	
	10/784,003	MATTHEWS ET AL.	
	Examiner	Art Unit	
	Andrew Belousov	2109	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *2/20/2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the original filing of February 20, 2004. Claims 1- 38 are pending and have been considered below.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-15 are drawn to a computer program per se ("user interface" (Claims 1-7); "user interface selectable control" (Claims 8-15.)) A computer program is not a series of steps or acts and this is not a process. A computer program is not a physical article or object and as such is not a machine or manufacture. A computer program is not a combination of substances and therefore not a compilation of matter. Thus, a computer program by itself does not fall within any of the four categories of invention. Therefore, Claims 1-15 are not statutory.

Claims 25-33, 37 and 38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 25-33, 37 and 38 are drawn to a computer readable medium, which the applicant has defined in the specification ([0056]) to encompass an electronic transmission signal. The Office considers an electronic signal to be a form of energy. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is

not a machine or manufacture. Energy is not a combination of substances and therefore not a compilation of matter. Thus, an electronic transmission signal does not fall within any of the four categories of invention. Therefore, Claims 25-33, 37 and 38 are not statutory.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a user interface selectable control, does not reasonably provide enablement for using a single definition for creating a number of objects. The apparatus in this claim consists of a single mean: "using a single definition for creating a number of objects", and thus is interpreted as a single means/single step claim under MPEP 2164.08(a).

"A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known

to the inventor.). When claims depend on a recited property, a fact situation comparable to Hyatt is possible, where the claim covers every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor."

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "approximately" in claims 1, 8, 16, 19, 20, 21, 22, 23, 25, 28, 29, 30, 31, 32, 34 and 37 is a relative term which renders the claims (and claims dependant on the same) indefinite. The term "approximately" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is indefinite whether the multiple applications are to be started at the same by queuing them up with the Operating System and allowing only for the time it takes for the processor to load the said multiple applications, or whether the multiple applications are loaded up by some other timing scheme (daily, weekly, etc) such as in a case of a scheduler.

The term "minimum" in claims 6, 7, 14, 15, 23, 24, 32 and 33 is a relative term which renders the claims indefinite. The term "minimum" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is indefinite for how long the applications are to execute to be of sufficient duration.

Claims 34 and 37 recite the limitation "the selected application programs" in line 4, 5, respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 9, 10, 16, 17, 18, 19, 25, 26, 27, 28, 34, 35, 36, 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Enin (Batch Launcher 1.0, Feb 10, 2003 release.)

Claim 1: Enin discloses a user interface, comprising:

a. a selectable control (Applications list of the batch; page 1) configured to initiate (form the batch; page 1) that multiple applications start together (by one click; page 1) at approximately a same time; and
b. selectable configurations (batches; page 1) each configured (user formed; page 1) for a user selection to designate (drag and dropping; page 1) a multiple application start-up configuration (batch; page 1.)

Claim 2: Enin discloses a user interface as recited in claim 1, wherein the selectable control is user-configurable to designate a multiple application start-up configuration (page 1.)

Claim 8: Enin discloses a user interface selectable control (Applications List; page 1) configured for user selection to start multiple application programs together at approximately a same time (forming batches of several apps to launch at approx same time; page 1.)

Claim 9: Enin discloses a user interface selectable control as recited in claim 8, wherein the user interface selectable control is user-configurable to designate a multiple application program start-up configuration (user-configurable batches to launch several applications by one click; page 1.)

Claim 10: Enin discloses a user interface selectable control as recited in claim 8, wherein the multiple application programs are a user-defined (by drag and dropping the shortcuts; page 1) group of application programs (set of applications; page 1), and wherein the user interface selectable control is further configured to start (launch; page 1) the user-defined group of applications together (by one click; page 1.)

Claim 16, 25: Enin discloses a method and one or more computer readable media comprising:

a. receiving a user selection (drag and dropping; page 1) corresponding to a user interface selectable control (Applications list; page 1) which initiates (forms the batch; page 1) multiple applications together at approximately a same time (launch by one click; page 1); and
b. starting (launching; page 1) the multiple applications in response to receiving the user selection (one click; page 1.)

Claim 17, 26: Enin discloses a method and one or more computer readable media as recited in claim 16 and 25, respectively, further comprising receiving a user selection to designate a multiple application start-up configuration (selecting a required batch at Windows® startup; page 1.)

Claim 18, 27: Enin discloses a method and one or more computer readable media as recited in claim 16 and 25, respectively, further comprising receiving a user selection

(drag and dropping shortcuts; page 1) to configure the user interface selectable control which is user-configurable to designate a multiple application program start-up configuration.

Claim 19, 28: Enin discloses a method and one or more computer readable media as recited in claim 16 and 25, respectively, wherein receiving the user selection initiates (forms; page 1) a user-defined group of applications (batch; page1,) and wherein starting (launch; page 1) the multiple applications includes starting the user-defined group of applications together at approximately the same time (by one click; page1.)

Claim 34, 37: Enin discloses a method and one or more computer readable media comprising:

a. receiving multiple user selections (drag and dropping; page 1) each configured to initiate (add needed shortcuts (applications) to the batch (Applications list); page 1) an application program;
b. receiving a user input to initiate (batch forming; page 1) starting the selected application programs together at approximately a same time (by one click; page 1); and
c. starting (launching; page 1) the selected application programs in response to receiving the user input (one click; page 1.)

Claim 35, 38: Enin discloses a method and one or more computer readable media as recited in claim 34 and 37, respectively, further comprising delaying the start (launch; page 1) of the selected application programs (batch; page 1) until receiving the user input to initiate (drag and dropping; page 1) starting the selected application programs (formation of batches is performed before (delayed) launching (starting) the set of selected application programs (batch; page 1.)

Claim 36: Enin discloses a method as recited in claim 34, wherein receiving the user input to initiate starting the selected application programs includes receiving a user selection that does not correspond to a user-selectable control (use of shortcuts of the batches on the desktop; page 2.)

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 3-7, 11-15, 20-24 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Enin.

Claim 3, 11, 20, 29: Enin discloses a user interface, a user interface selectable control, method, and one or more computer readable media as recited in claim 1, 8, 16, and 25, respectively. While Enin does not disclose wherein the multiple applications are a group of applications executing when a previous computing session was discontinued, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include such a set of applications. One would have been motivated to include previous session applications in order to allow continuation of potentially interrupted task from the previous session.

Enin further discloses wherein the selectable control is further configured to initiate that the group of previously executing applications start (launch; page 1) together (by one click; page 1.)

Claim 4, 12, 21, 30: Enin discloses a user interface, a user interface selectable control, method, and one or more computer readable media as recited in claim 1, 8, 16, and 25, respectively. While Enin does not disclose wherein the multiple applications are a group of applications often selected for use by the user, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include such a set of applications. One would have been motivated to include often selected for use by the user applications in order to provide a quick launch of programs that will be most likely needed by the user and in such a fashion meet the anticipation of the user.

Enin further discloses wherein the selectable control is further configured to initiate that the group of previously executing applications start (launch; page 1) together (by one click; page 1.)

Claim 5, 13, 22, 31: Enin discloses a user interface, a user interface selectable control, method, and one or more computer readable media as recited in claim 1, 8, 16, and 25, respectively. While Enin does not disclose wherein the multiple applications are a group of applications recently selected for use by the user, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include such a set of applications. One would have been motivated to include recently selected for use by the user applications in order to allow continuation of recently interrupted task.

Enin further discloses wherein the selectable control is further configured to initiate that the group of previously executing applications start (launch; page 1) together (by one click; page 1.)

Claim 6, 14, 23, 32: Enin discloses a user interface, a user interface selectable control, method, and one or more computer readable media as recited in claim 1, 8, 16, and 25, respectively. While Enin does not disclose wherein the multiple applications are a group of applications previously executing for at least a minimum duration, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include such a set of applications. One would have been motivated to include

applications that were previously executing for at least a minimum duration in order to allow continuation of previously interrupted task.

Enin further discloses wherein the selectable control is further configured to initiate that the group of previously executing applications start (launch; page 1) together (by one click; page 1.)

Claim 7, 15, 24, 33: Enin discloses a user interface, a user interface selectable control, method, and one or more computer readable media as recited in claim 1, 8, 16, and 25, respectively. While Enin does not disclose wherein the selectable configurations include at least one of (i) a configuration to designate a group of applications executing when a previous computing session was discontinued, (ii) a configuration to designate a group of applications often selected for use, (iii) a configuration to designate a group of applications recently selected for use, and (iv) a configuration to designate a group of applications previously executing for at least a minimum duration, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include at least one of such configurations. One would have been motivated to include at least one of the said configurations in order to provide a quick launch of programs that will be most likely needed by the user and in such a fashion meet the anticipation of the user.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Andy Rathbone, Windows(r) XP for Dummies(r),2001, Wiley Publishing Inc., page 169.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Belousov whose telephone number is (571) 270-1695. The examiner can normally be reached on Mon-Fri (alternate Fri off) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on (571) 272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AB
March 13, 2007

James W. Myhre
Supervisory Primary Examiner